UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/247
3 September 1993

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-third session

DOCUMENTS SUBMITTED IN COMPLIANCE WITH A
SPECIAL DECISION OF THE COMMITTEE*

BOSNIA AND HERZEGOVINA

[29 July 1993]

1. The Republic of Bosnia and Herzegovina, being a sovereign and independent State accepted as a Member State of the United Nations on 22 May 1992, assumed inter alia, the obligation to respect all the international acts and norms relating to the protection of human rights and freedoms, including the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965.

2. Following the official procedure, the Government of the Republic of Bosnia and Herzegovina declared, by its notification on the succession of the international treaties signed or acceded to by the former Yugoslavia, addressed to the Secretary-General of the United Nations that it considered itself bound by the Convention.

---

* By a decision of 19 March 1993, the Committee expressed its grave concern over the ongoing ethnic conflict in the territory of the former Yugoslavia, requested the Government of Bosnia and Herzegovina to confirm its adherence to the Convention and, as for other successor Governments, to submit information on the implementation of the Convention as a matter of urgency.

GE.93-18394 (E)

3. Due to the aggression against the Republic of Bosnia and Herzegovina, massive systematic and blatant violations of basic human rights and freedoms, and massive crimes against humanity and international law, on a scale not recorded since the end of the Second World War, have been committed. This aggression has been committed by the regular armed forces of Serbia and Montenegro, which originated from the former Yugoslav People's Army, by paramilitary units from Serbia and Montenegro and by "dissident armed forces ... under responsible command" (definition according to art. 1 of Additional Protocol II to the Geneva Conventions of 12 August 1949)* who call themselves "the Army of the Serbian Republic", originating from parts of the former Yugoslav People's Army that existed in the territory of the Republic of Bosnia and Herzegovina and from armed groups of the nationalist Serbian Democratic Party, which, being a terrorist organization, has been prohibited by a court verdict.

4. Aggression against the Republic of Bosnia and Herzegovina has also been committed by parts of the armed units of the Croatian Defence Council, controlled by the extremist nationalist forces and actively supported by parts of the regular armed forces of the Republic of Croatia.

5. The aggression, due to indecision and inconsistency in respect of the implementation of measures adopted in numerous resolutions, recommendations and appeals of the highest international and regional institutions and organs, the General Assembly and the Security Council of the United Nations, The Conference on Security and Cooperation in Europe, the European Community, the European Council and others, has not been halted; on the contrary, it has become wider and more tragic in scope with lasting and far-reaching aftermaths. As a result of the aggression a substantial part of the territory of the Republic of Bosnia and Herzegovina has been temporarily occupied, while a part of it has been controlled by extremist forces of the Croatian Defence Council.

6. It is in those territories, in contrast to the ones controlled by the legal authorities of the Republic of Bosnia and Herzegovina, that a striking violation is taking place, including the violation of the International Convention on the Elimination of All Forms of Racial Discrimination, having as its base a "distinction, exclusion, restriction or preference based on ... national or ethnic origin", i.e. belonging to certain ethnic groups, "which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life" (para. 1, art. 1 of the Convention).

---

* "1. This Protocol ... shall apply to all armed conflicts ... which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol."

7. Bosnia and Herzegovina, as is known, is a multinational, multireligious and multicultural European State. According to the last census, dating from March 1991, it had 4,364,649 inhabitants, among them 1,905,274, or 43.7 per cent, Muslims; 1,369,883, or 31.4 per cent, Serbs; 755,883, or 17.3 per cent, Croats and 333,609, or 7.6 per cent others. In the largest part of the country and in the majority of municipalities, towns and settlements, the population was mixed and the relations between different national groups and among neighbours were friendly. Out of a total of 109 municipalities in the Republic, Muslims comprised more than half of the population in 37 municipalities, Serbs comprised more than half of the population in 32 municipalities and Croats in 14 municipalities, whereas Muslims comprised more than 90 per cent of the population in only two municipalities, the Serbs in only three and the Croats in only five municipalities.

8. Out of the total area of the Republic of Bosnia and Herzegovina, 53.26 per cent was under social (State) ownership and 46.74 per cent was private property. According to the cadastral data, 42 per cent of private land belonged to Muslim owners, 42 per cent to Serb owners and 16 per cent to Croat owners. State ownership covers all parts of the territory of the Republic and, in accordance with the international law, State ownership, including that of Bosnian and Herzegovinian, belongs to all of its citizens, regardless of their national, religious, racial or any other origin. Thus, there is no separate individual national ownership in the State of Bosnia and Herzegovina, and in view of that there is no separate individual State territory.

9. In contradiction to these facts, centuries of living together, common history and, objectively speaking, common immediate and long-term historical interests, extremist nationalist powers, aiming at the realization of hegemonic projects of creating a "Greater Serbia" and also a "Greater Croatia" by means of violence, terror, crimes and genocidal policy, have caused massive human suffering and oppressing of basic human rights and freedoms. This programme, being in its essence racialist and nationalist-fascist, is aimed against the non-Serbian peoples, in the case of Bosnia and Herzegovina primarily against Muslims. In preparation for the armed aggression and during it, the basic starting points have been that all Serbs should live in one State, that the existence of the Serbian people has been jeopardized by the Muslims and the Croats. Thus, certain areas, regardless of the real state of affairs, have been declared Serbian territories. All municipalities that should, according to the conceived plan, be incorporated in the so-called Serbian Republic have been pronounced Serbian municipalities, without regard to real composition of the population. Municipalities with a mixed population or with a Muslim majority have been declared Serbian. To implement these goals, the policies of genocide and so-called "ethnic cleansing" have been systematically conducted.

10. Since the beginning of the aggression, a total communication blockade has been established and the representatives of the international organizations (International Committee of the Red Cross, World Health Organization, United Nations High Commissioner for Refugees, United Nations and European

Community monitors, missions of Special Rapporteur Mazowiecki, Helsinki Watch, etc.) have been deprived of having an insight into the situation in the temporarily occupied parts of the Republic. For that reason there is no overall review and data on victims of the aggression. According to the data available to the Republic Headquarters for Health Care and Social Security of Citizens and Ministry of Health Care of the Republic of Bosnia and Herzegovina, in the period since the beginning of the aggression until 19 July 1993, 139,708 persons were killed, died of starvation or were missing, 16,902 of them being children; 152,039 persons were wounded, 38,371 of them children. Scores of people have been seriously wounded or permanently disabled, a great number of them being maimed. This is considered to be only 65 per cent of the number of killed and wounded, so that the total killed amounts to over 215,000. In order to implement the genocidal policy of "ethnic cleansing" the aggressor has used all methods and means, forbidden by international law and humanitarian rules and norms. Beside using forbidden deadly means (explosive and inflammable ammunition, chemical agents, cassette bombs, snipers, etc.), civilians and civilian buildings, medical premises and hospitals included, are fired at with antiaircraft guns, heavy artillery, mortars, tanks and, at one time, with aircraft. Towns, settlements and villages inhabited mainly by the Muslim population are shelled. For example, the order of General Mludić, now the Commander in Chief of the so-called Serbian Republic Army, to fire at Sarajevo's settlement Velešići "because there are not many Serbs there", is well-known.

11. Besides armed attacks, goals of the aggression, namely of the "ethnic cleansing" policy, are also being implemented by well-planned and, -conceived tactics of violence, terror and barbarian methods. People are arbitrarily arrested and illegally detained because of their national or religious origin. One hundred and ninety-four concentration camps have been established, tens of thousands of people have been detained there and substantial torture, maiming and execution of civilians have been committed there. A certain number of those camps still exist. Acts of rape have been committed against Muslim women, and even six-year-old girls and old women have not been spared. Those women who have become pregnant are prevented from their right to abortion. It is very unlikely that women who have been raped several times, regardless of their age, will ever decide to give birth. The biological cycle of giving birth has been disturbed, which has been one of the aims of the aggressor's genocidal acts. According to the data gathered so far, 25,000 to 30,000 Muslim women have been victims of the crime of rape.

12. Serbian armed units and civilian "authorities" commit massive forcible displacement of the non-Serbian population, first of all of the Muslims, from the homes of their ancestors. A great many families have been torn apart. The actual number of refugees from Republics is between 1,270,000, and 1,006,000. In order to prevent their return to their homes, their houses and property have been looted, burnt down and destroyed, sacred objects have been devastated, cemeteries have been ploughed up, cultural and historical heritage have been destroyed. Eighty-five cultural monuments and over 1,000 Islamic, 121 Catholic, 12 Orthodox and 5 Jewish houses of worship have been destroyed. All this is being done to eradicate all traces of the existence of a people of a rich, several-centuries-old civilization, so as to establish a "clean" Serbian country.

13. In the last months the actions of extremist nationalist Croatian groups in parts of Herzegovina and central Bosnia have been similar or identical to the above-mentioned ones.

14. For the realization of the goals of the genocidal policy of "ethnic cleansing", they deliberately starve people and incapacitate their medical treatment, health and epidemiological protection by preventing UNHCR and other international and local humanitarian organizations from delivering food and medicines, by preventing the supply of electricity, water, gas, and fuel, by dismissing them from their jobs and by depriving them of all forms of social care, the elderly, women and children included.

15. Through armed aggression and killing, systematic and massive application of the above-described methods and means of violence, spreading of fear and hopelessness, lies and methods of psychological propaganda, an unbearable environment and impossible living conditions are being created so as to force the people to leave the territory which is, according to national extremist plans, envisaged to be solely either Serbian or Croatian territory. The Muslims have been eradicated in substantial parts of territories and, furthermore, plans for exchanging of territories and for "humane" dislocation of hundreds of thousands of people have been elaborated. It is surprising that such unreasonable ideas have been supported by legal organs of individual States, members of the United Nations, that have their own tragic experience with respect to such projects. The final end is to divide the country on an ethnic basis, to create three ethnically "clean" entities within a confederation, namely to destroy the State of Bosnia and Herzegovina.

16. Members of the Serbian people opposing or rejecting the nationalist policy of creating a Greater Serbia are also exposed to pressure and torture, declared traitors, converts to Islam; they also are being detained, tortured and executed. It should be recalled that under the charges brought against Yugoslavia (Serbia and Montenegro), based on the application of the Convention on the Prevention and Punishment of the Crime of Genocide, the International Court of Justice at The Hague released on 8 April this year the Order of Provisional Measures in which it called upon Yugoslavia to "immediately ... take all measures within its power to prevent commission of the crime of genocide" and further requested that it "should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction and influence, do not commit any acts of genocide, of conspiracy to commit genocide, or direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnic, racial or religious group".

17. Individual cases of violation of human rights and freedoms under the Convention have occurred in the territory controlled by the legal authorities of the Republic of Bosnia and Herzegovina. Individuals and groups have taken advantage of a difficult conflict situation which have hindered the normal and effective functioning of the authorities. However, through measures and activities undertaken by both civil and military authorities, such actions

have been prevented from becoming larger in scope, particularly attempts at retaliation. The legal regulations of the Republic of Bosnia and Herzegovina in force define the following criminal acts as most serious:

(a) Violation of the basic human rights and freedoms acknowledged by the international community, based on race, colour, nationality or ethnic origin;

(b) Repression of organizations or individuals because of their commitment to support the equality of all people;

(c) Spreading the idea of the superiority of one nation over another or propaganda of racial hatred or inciting to racial discrimination (art. 154 of the Criminal Law).

18. Numerous reports on the situation of the violation of basic human rights and freedoms in Bosnia and Herzegovina have been presented to the respective organs of the United Nations. These include several reports of Mr. Tadeusz Mazowiecki, Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, reports of the Government of the United States, Helsinki Watch and other organizations, as well as the report of the mission to the Republic of Bosnia and Herzegovina (S/25700) authorized by Security Council resolution 819 (1993).

19. The failure of the international community to declare its commitment to halt genocidal aggression against the Republic of Bosnia and Herzegovina, equalization of the aggressor and the victim, depriving the victims of their right to self-defence, attempts to implant a thesis of civil war, tolerance of genocide and indecision in preventing it as well as other crimes against humanity and international law, hesitation in condemning the acquisition of territories by force and in clearly identifying the perpetrators and organizers of crimes imply without any ambiguity, that it is high time for the international community to take its share of responsibility for crimes committed in Bosnia and Herzegovina.

20. The legal authorities and the majority of the population of Bosnia and Herzegovina are determined that all three constitutional peoples, and all others whose ancestors inhabited these areas should live together because historical experience and common destiny have fixed them in their belief that it is the only possible solution. They oppose the genocidal and racial policy of "ethnic cleansing", the partition of their country on an ethnic basis, the exchange of territories and the dislocation of peoples; they support a liberated, united, integral, indivisible, independent, sovereign, democratic, civil Republic of Bosnia and Herzegovina, the European State within its internationally recognized borders.